

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG (STAUNTON) DIVISION

In re:

**JAMES LADDY MARTIN, JR. AND
DELLA DAWN MARTIN**

Case No. **12-51093**

(Chapter 7)

Debtor(s)

**GEORGE I. VOGEL, II, TRUSTEE
IN BANKRUPTCY OF JAMES LADDY
MARTIN, JR. AND DELLA DAWN MARTIN**

Plaintiff,

v.

**JAMES LADDY MATIN, JR.
DELLA DAWN MARTIN**
8 Blacks Run
Goshen, Virginia 24439

ALSO NOTIFY:
DONALD MORRIS BURKS, ESQUIRE
30 Crossing Lane, Suite 205
Lexington, Virginia 24450
Counsel for Debtors

BANK OF THE WEST
C/O MAURA MARKUS, PRESIDENT & CEO
180 Montgomery Street
25th Floor
San Francisco, California 94104

ALSO NOTIFY:
BANK OF THE WEST
NC-Bo7-3C-Y
2527 Camino Ramon
San Ramon, California 94583

ALSO NOTIFY:
BANK OF THE WEST
P. O. Box 8160
Walnut Creek, California 94596

**BETTY TROVATO, TREASURER
ROCKBRIDGE COUNTY**
P. O. Box 784
Lexington, Virginia 24450

Defendants

**MOTION BY TRUSTEE FOR AUTHORITY TO SELL
PROPERTY OF THE ESTATE PURSUANT 11 U.S.C. §363(b)**

George I. Vogel, II, Trustee of this case, moves for an order authorizing the Trustee to sell the below described property pursuant to 11 U.S.C. §363(b) and alleges as follows:

1. That on August 15, 2012 the Debtors filed a petition pursuant to Chapter 7 of the United States Bankruptcy Code.
2. Movant is the duly appointed and acting trustee in this case.
3. The female Debtor has a one-seventh undivided interest in real estate which is subject to the life estate of one life tenant located in Vesuvius, Rockbridge County, Virginia and being more commonly known as 116 Nettle Creek Road, Vesuvius, Virginia, which undivided interest the trustee requests authority to sell.:
4. The trustee proposes to sell the real estate in the following manner:
 - A. The sale of the property shall be subject to any liens, real estate taxes, claims and encumbrances.
 - B. The property shall be sold by private sale.
 - C. The asking price for the property is \$9,000.00.
 - D. The identity of the purchaser is unknown.
 - E. Terms and conditions of the sale are cash.
 - F. The time and date of the sale is unknown at this time.
5. The trustee has determined that the following parties may claim a security or other interest in the real estate:
 - (1.) The Trustee is advised there are no liens against the real estate.
 - (2.) Rockbridge County real estate taxes that are accrued but unpaid constitute a lien against the aforesaid real estate.
6. The estate also has an interest in the following items of tangible personal property which the Trustee requests authority to sell:
 1. 2009 Hartland Sundance Camper
 2. 2003 GMC Truck
7. The Trustee proposes to sell the said tangible personal

property described above in the following manner:

- A. The sale shall be by public auction.
 - B. The estimated purchase price for the items to be sold is \$9,000.00.
 - C. The identity of the purchasers are unknown at this time.
 - D. The terms and conditions of the sale are cash.
 - E. The time and date of the auction is unknown at this time.
 - F. Any liens will be paid from the sales proceeds.
8. The Trustee has determined that the following parties may claim a security or other interest in the personal property listed above:
- A. Bank of the West
 - B. Rockbridge County Treasurer for personal property taxes

WHEREFORE, the Trustee requests the Court enter an order authorizing the Trustee to sell the property described herein in the manner and under the terms and conditions set forth. The Trustee does not intend to file a brief in connection with this motion but reserves the right to file a responsive brief if necessary.

Dated this 22nd day of January, 2014.

/S/ GEORGE I. VOGEL, II
GEORGE I. VOGEL, II, TRUSTEE

George I. Vogel, II, Trustee
Vogel & Cromwell, L.L.C.
P.O. Box 18188
Roanoke, VA 24014
(540) 982-1220
gvogel@vogelandcromwell.com

CERTIFICATE OF SERVICE

I hereby certify that I have this 22nd day of January, 2014 mailed or electronically transmitted a copy of the foregoing Motion to the Debtors, to counsel for the Debtors, to all parties listed as Defendants, to all creditors as listed on the Debtors' mailing matrix and to the Office of the United States Trustee.

/S/ GEORGE I. VOGEL, II
GEORGE I. VOGEL, II, TRUSTEE

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**BETTY TROVATO, TREASURER
ROCKBRIDGE COUNTY**
P. O. Box 784
Lexington, Virginia 24450

Defendants

**NOTICE OF MOTION BY TRUSTEE FOR AUTHORITY TO
SELL PROPERTY OF THE ESTATE PURSUANT TO §363(b)**

George I. Vogel, II, the Trustee in this case has filed a motion for an order granting the Trustee authority to sell certain property of the estate pursuant to §363(b) of the Bankruptcy Code, as described below. A copy of the motion is attached to this notice.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in the bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the Trustee's motion to sell estate property pursuant to §363, or if you want the court to consider your views on the motion, then on or before 5:00 p.m. on February 17, 2014, you or your attorney must:

1. File with the court a written objection to the sale and a request for a hearing at:

**WRITTEN OBJECTION AND REQUEST FOR A HEARING TO BE
SCHEDULED SHOULD BE SENT TO:**

Clerk, U. S. Bankruptcy Court
Harrisonburg Division
116 N. Main Street, Room 223
Harrisburg, VA 22802

2. If you mail your objection to the court for filing, you must mail it early enough so the court will receive it on or before the date stated above.

3. You must also mail a copy to:

Office of the U. S. Trustee
First Campbell Square Building
210 First Street, Suite 505
Roanoke, VA 24011 and to

George I. Vogel, II, Trustee
P. O. Box 18188
Roanoke, Virginia 24014

4. Attend the hearing scheduled to be held on **FEBRUARY 19, 2014 AT 10:00 A.M.** in the United States Courthouse, 116 North Main Street, Harrisonburg, VA 22802.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

The Trustee intends to sell the following property in the manner set forth:

REAL ESTATE

The property being sold is the female Debtor's one-seventh undivided interest in real estate subject to a single life estate being more commonly known as 116 Nettle Creek Road, Vesuvius, Rockbridge County, Virginia. The sale of the property shall be subject to any liens, real estate taxes, claims and encumbrances. The property shall be sold by private sale. The purchase price for the property is \$9,000.00. The identity of the purchaser is unknown. The terms and conditions of the sale are cash. The time and date of the sale is unknown at this time. The anticipated benefit to the estate as a result of the sale of the real estate is approximately \$9,000.00.

PERSONAL PROPERTY

The property being sold is the Debtors' personal property being a 2009 Hartland Sundance Camper and 2003 GMC Truck. Any liens, claims and encumbrances shall be paid from the proceeds of sale. The sale shall be by public auction. The estimated purchase price for the items to be sold is \$9,000.00. The identity of the purchasers are unknown at this time. The terms and conditions of the sale are cash. The time and date of the auction is unknown at this time. The anticipated benefit to the estate as a result of the auction after deduction of the cost of sale and payment of lien shall be approximately \$5,000.00.

The Trustee reserves the right to withdraw from the proposed sale should circumstances require. Requests for additional information should be directed to the Trustee.

Date: January 22, 2014

/S/ GEORGE I. VOGEL, II
GEORGE I. VOGEL, II, TRUSTEE
P. O. Box 18188
Roanoke, VA 24014
(540) 982-1220

CERTIFICATE OF SERVICE

I hereby certify that I have this 22nd day of January, 2014 mailed or electronically transmitted a true and correct copy of the foregoing Notice with motion attached to the Debtors, the Debtors' counsel, to all parties listed as Defendants, to all creditors as listed on the Debtors' mailing matrix and to the Office of the U.S. Trustee.

/S/ GEORGE I. VOGEL, II
GEORGE I. VOGEL, II, TRUSTEE

Vogel &
Cromwell, L.L.C.

Roanoke VA